

Resolution No:	<u>15-1023</u>
Introduced:	<u>May 26, 2005</u>
Adopted:	<u>May 26, 2005</u>

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Approval of the FY 2006 Cable Communications Plan

Background

1. Section 8A-28(a) of the County Code provides that "All access grants, franchise fees, and other moneys received by the County from any franchisee may be spent only under a budget approved by the County Council and in accordance with the County Cable Communications Plan."
2. Section 8A-28(b) of the County Code provides that "The Cable Communications Plan must be proposed by the County Executive to the Council annually and may be amended at any time."
3. Section 2.2 of the 2002 AT&T Comcast Transfer Agreement provides that "... all provisions of the Franchise Documents remain in full force and effect and are enforceable in accordance with their terms and with applicable law."
4. Section 7(b) of the 2000 Franchise Agreement with Comcast provides that Comcast must pay a capital grant to the County of "\$200,000 per year . . . to be used by the County, in its sole discretion, for PEG equipment . . . or for PEG-related facilities renovation, or construction."
5. Section 7(h)(1) of the 2000 Franchise Agreement with Comcast provides that Comcast must pay an annual capital grant to the County of \$1.2 million, adjusted annually by the Consumer Price Index, "to support installation, construction, operations, and maintenance of the County's FiberNet and associated network equipment, and the Institutional Network . . ."
6. Section 4.1 of the 1998 Cable Franchise Transfer Settlement Agreement, assumed by Comcast from Prime Communications – Potomac, LLC, between the County, Prime Communications, and SBC Media Ventures, Inc., provides that Comcast must pay \$1.5 million, adjusted annually by the Consumer Price Index, for PEG support.

7. Section 7(b) of the 1999 Franchise Agreement with Starpower provides that Starpower must pay a capital grant to the County of "3% of Gross Revenues per year . . . excluding revenues arising from Internet Access . . . to be used by the County . . . for PEG access and institutional network purposes, including PEG access equipment, institutional network equipment or for renovation or construction of PEG access or institutional network facilities."
8. Section 8 of the Franchise Agreements with Comcast and Starpower provides that each franchisee must pay, for the life of the franchise, a franchise fee of 5 percent of annual gross revenues.

General Provisions

1. Purpose and Effect: This Cable Communications Plan constitutes the County's formal direction for the use of resources required to be provided under Sections 7 and 8 of the Franchise Agreements with Comcast and Starpower.

In FY 2006, these resources must be deposited by the County in its Cable TV Special Revenue Fund, and this Cable Communications Plan directs the use of the revenues in this Fund.

2. Spending Authority under the Time Period Governed by This Plan: This Cable Communications Plan provides spending authority for FY 2006. Resources appropriated in FY 2006 that are not encumbered by the County on or before June 30, 2006, must remain in the Cable TV Special Revenue Fund and be available for spending in future years.
3. Carryover: Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast and Starpower, but not specifically allocated in the Cable Communications Plan to the General Fund, must remain in the Cable TV Special Revenue Fund and be available to be allocated in future years.
4. Future Fiscal Years: No estimate shown for any fiscal year after FY 2006 reflects any commitment or decision by the Council, and any such estimate should not be taken as prejudging any decision regarding activities or allocations, either in absolute or relative amounts, of expenditures for future years.
5. Management of Funds: All equipment, personnel, and other resources approved in the Cable Communications Plan for funding from the Cable TV Special Revenue Fund must be managed so that the resources are reasonably available to all users of the cable system and provide benefits to the subscribing public and the franchisee.
6. Affirmative Action and MFD Procurement Procedures: The Board of Directors of Montgomery Community Television, Inc. (MCT), must adopt and follow an Affirmative Action Plan and procedures for procurements from minority-, female-, and disabled-owned businesses (MFD) that take into account both the requirements of the Franchise Agreements with Comcast and Starpower and relevant provisions of the County Code.

7. Financial Disclosure: The County must not spend any FY 2006 funds allocated to MCT until all members of the board of directors and the executive director of MCT have filed a financial disclosure statement with the Ethics Commission for the 2004 calendar year.
8. FY 2007-2012 Cable Plan: The Executive must submit a preliminary six-year Cable Communications Plan for FY 2007 through FY 2012 to the Council no later than January 15, 2006. The Executive submitted a preliminary 6-year Cable Communications Plan for FY 2005 through FY 2010 to the Council on January 14, 2005. The Preliminary Cable Communications Plan included: (a) a list of known PEG activities and funding needs for FY 2005 through FY 2010; (b) a preliminary plan for prioritizing PEG funding needs within the context of the County's long-term vision for Cable television; (c) any capital project expenditures proposed to be funded through the plan; (d) changes to approved multi-year expenditures; and (e) updated projections of plan revenues for FY 2004 through FY 2010.

FY 2006 Cable Communications Plan Description

The FY 2006 Cable Communications Plan provides funding for cable franchise administration (Department of Technology Services, County Attorney's Office, and outside professional services); for municipal equipment and support; for public, educational, and government access programming (Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); and for other miscellaneous cable-related activities.

The attached table details the approved expenditures from the Cable TV Special Revenue Fund for the following purposes in FY 2006:

Franchise Administration

- A. Funds are allocated to the Department of Technology Services to administer the Franchise Agreements with Comcast and Starpower, including inspecting construction, testing signal quality, responding to citizen complaints, budgeting franchise fee and grant funds received from the cable operator, managing the contract to provide public access services, supporting a citizen advisory committee, administering Federal Communications Commission rules and regulations, preparing for and negotiating franchise agreements, managing the County Government Channel, maintaining County Government Channel video equipment, and advising elected officials on related policy matters.
- B. Funds are allocated to the County Attorney's Office to support the in-house staff costs associated with advising the Department of Technology Services and elected officials on related matters.
- C. Funds are allocated to hire outside professional services to advise or represent the County in areas of specialized telecommunications needs.

Municipal Support

- D. Funds are allocated for sharing franchise fee revenue with the municipal co-franchisors in accordance with the formula in Section 8A-30 of the County Code.
- E. Funds are allocated to support the 3 PEG channels allocated to (1) the City of Rockville; (2) the City of Takoma Park; and (3) the Montgomery County Chapter of the Maryland Municipal League. Funds are allocated from the Capital Equipment Support Grant according to the requirements of Section 7(b)(2) of the Franchise Agreement with Comcast, and from the PEG Support Fund according to the requirements of Section 4.1 of the 1998 Cable Franchise Transfer Settlement Agreement assumed by Comcast from Prime Communications. Funds are allocated from the PEG Support Fund to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Settlement Agreement.

County Government Access Programming

- F. Funds are allocated to the Office of Public Information for in-house staff to produce Executive Branch programming for the County Government Channel. Funds are allocated for the Office of Public Information for contractors to provide the technical services needed to produce, tape, and transmit programs, and to improve the program guide for the channel.
- G. Funds are allocated to the Council for contractors to provide cable-related services including the technical services needed to produce programming for the Council, the Planning Board, the Parks Department, and Legislative Branch agencies, and to improve the program guide for the County Government Channel.

Educational Access Programming

- H. Funds are allocated to Montgomery College to produce educational programs and operate a cable channel with in-house staff.
- I. Funds are allocated to Montgomery County Public Schools to produce educational programs for children, parents, and teachers; carry Board of Education meetings; and run other educational programming of interest to County residents. MCPS currently operates two educational access channels on the cable system.

Public Access Programming

- J. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2006 specified in its contract with the County, including the following:
 - (1) produce and schedule two public access channels, including disseminating information on the daily program schedule;

- (2) train community producers and technicians in program production and assist residents and community organizations in developing locally produced or locally sponsored programming;
- (3) provide and maintain a central access studio, field production equipment, and editing facilities for use by community producers in program production;
- (4) maintain all video equipment provided to MCT or purchased by MCT with cable company or County funds;
- (5) produce local interest and public affairs programming for Channel 21;
- (6) promote and encourage programming representing a diversity of community interests and needs; and
- (7) perform outreach and create programming in the down-county area.

Other Expenditures

K. For FY 2006, funds are allocated for PEG Equipment Replacement, for an Emergency Equipment Reserve to be used in case of imminent failure of major PEG video systems, for joint PEG Programming/Promotion, PEG Network Engineering and Administration, and for PEG Programming to provide access to cable by community organizations.

For FY 2006, funds are allocated for the operation of the Technical Operations Center to monitor and adjust technical quality of PEG Programming.

For FY 2006, funds are allocated to the Village of Friendship Heights for cable programming and equipment expenses.

For FY 2006, funds are allocated to purchase and maintain a new County mobile production vehicle.

For FY 2006, funds are allocated to continue the work associated with the feasibility study for the development of a down-County Community Media Facility.

The Council wishes to encourage the most cost-effective operations of the PEG Channels and has directed the PEG Network to enhance the sharing of equipment, facilities, and personnel. All funds appropriated for PEG Equipment Replacement must be administered by the Office of Cable and Communications Services. Before spending any funds for this purpose, the PEG Network must report to the Council and the Executive on their plans for the purchase and allocation of replacement equipment consistent with the findings of the Columbia Telecommunications Corp. PEG Future Study. The Council intends that preference be given

to purchases of equipment and facilities that can be shared by more than one PEG Channel.

The Council encourages the municipal co-franchisors to develop plans for purchasing equipment, using engineering expertise available from the other PEG Channels and the Office of Cable and Communications Services, and acquiring equipment that facilitates the sharing of resources with other PEG channels.

The Office of Cable and Communications Services must not spend funds from the Emergency Equipment Reserve until the PEG Network finds that additional replacement funds are needed to prevent interruption of programming on one or more PEG Channels.

All equipment purchased with Cable Funds, except equipment purchased with Municipal Grant funds or funds allocated to the Village of Friendship Heights under this Plan, must be titled to the Montgomery County Government, which may, under appropriate controls, allocate some of the equipment for use to individual PEG Channels.

Before the PEG Network may spend funds allocated for PEG joint Programming/Promotion, the Network must report its general plans to the Council and the Executive.

Institutional Telecommunications

- L. For FY 2006, funds are allocated for Institutional Telecommunications for FiberNet capital improvements and operations. The County's Franchise Agreement with Comcast, assumed from Prime Communications, provides that Comcast must pay grants to support operations, maintenance, and the installation of cables and electronic equipment for the County's FiberNet.

The County plans to expand the FiberNet network to meet the telecommunications needs of County agency facilities. The Department of Technology Services must develop a FiberNet buildout plan that identifies facilities with the greatest need for high-speed voice, data, and video transmissions and for which FiberNet offers lower cost service than private sector telecommunications providers. User agencies must notify the Council before paying any fee to or entering into any agreement with any private provider, if using FiberNet to serve specific facilities is more advantageous to the County. The Council will then consider if adjustments to the funded FiberNet buildout schedule are warranted to avoid paying excessive fees to private providers for telecommunications service to any specific facility.

In FY06, the Council allocated \$1,241,000 to fund the County's Automated Traffic Management System. These funds must be repaid according to the same terms and schedule as the FY04 General Fund transfer detailed below.

General Fund Transfer and Repayment Schedule

- M. In FY 2004, \$2,636,000 was appropriated from the Cable TV Special Revenue Fund to the General Fund to finance general government operations. This was the first year that the Executive recommended transferring funds derived from franchise fees for unspecified general government operations.

The FY04 General Fund transfer and the FY06 funding for the Automated Traffic Management System must be repaid without interest according to the following schedule: \$775,400 annually beginning in FY 2008 and continuing through FY 2012, for a total of \$3,877,000.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Council approves the attached Cable Communications Plan as described in this resolution and appropriates cable communications grant resources and settlement funds as provided in the Cable Communications Plan and this resolution and any amendments to either that the Council adopts for FY 2006.

This is a correct copy of Council action.



Linda M. Lauer
Clerk of the Council

FY06 CABLE COMMUNICATIONS PLAN (\$000's)

SCHEDULED EXPENDITURES	Actual FY04	pprove FY05	Estimated FY05	Recommended FY06	% Chg From '05 Plan	FY07	FY08	FY09	FY10	FY11
CPI (Fiscal Year)	2.7%	2.4%	2.8%	2.6%		2.6%	2.6%	2.5%	2.5%	2.6%
BEGINNING FUND BALANCE	3,529	322	1,310	2,165	572.4%	706	1,967	3,713	5,809	7,929
REVENUES										
5% Franchise Fee	8,043	7,750	8,452	8,696	12.2%	8,831	9,052	9,278	9,510	9,748
G'Burg PEG Contribution	154	150	156	159	6.0%	159	163	167	171	175
PEG Operating	1,829	1,854	1,894	1,949	5.1%	2,000	2,052	2,103	2,156	2,212
PEG Capital/Equipment	216	221	222	227	2.7%	233	239	245	251	258
FiberNet Operating	1,335	1,362	1,368	1,399	2.7%	1,435	1,473	1,510	1,547	1,587
Interest Earned	71	35	112	170	385.7%	230	280	320	360	390
Tower Review Fees	72	49	48	42	0.0%	51	53	54	55	55
Miscellaneous	2	0	4	0	0.0%	0	0	0	0	0
Transfer from the General Fund	0	0	0	0	0.0%	0	775	775	775	775
TOTAL ANNUAL REVENUES	11,722	11,421	12,256	12,642	10.7%	12,939	14,087	14,452	14,825	15,200
TOTAL RESOURCES-CABLE FUND	15,251	11,743	13,566	14,807	26.1%	13,645	16,054	18,165	20,634	23,129
EXPENDITURES										
A. FRANCHISE ADMINISTRATION										
Personnel Costs	688	768	644	681 +	-11.3%	699	739	744	799	855
Oper. Exp. & Cap. Outlay	69	60	60	62 +	3.3%	64	66	68	70	72
Engineering/Inspection	480	480	480	485 +	1.0%	498	511	524	537	551
Indirect costs trans to Gen Fund	94	178	178	167 1	-6.2%	171	186	187	187	187
SUBTOTAL	1,331	1,486	1,362	1,395	-6.1%	1,432	1,502	1,523	1,593	1,665
B. COUNTY ATTORNEY										
Personnel Costs	66	67	67	72	7.5%	75	78	82	86	90
SUBTOTAL	66	67	67	72 2 +	7.5%	75	78	82	86	90
C. OUTSIDE PROFESSIONAL SERVICES										
Legal and other	323	325	325	375	15.4%	385	395	405	415	426
SUBTOTAL	323	325	325	375 +	15.4%	385	395	405	415	426
D. MUNI. FRANCHISE FEE SHARING										
Revenues to municipalities	576	540	609	620	14.8%	636	653	669	686	704
SUBTOTAL	576	540	609	620 +	14.8%	636	653	669	686	704
E. MUNICIPAL EQUIPMENT & OPERATIONS										
Rockville Equipment (a)	41	42	44	45	7.1%	46	47	48	49	50
Rockville PEG Operating Support (a)	57	58	58	59	1.7%	60	62	64	66	68
Takoma Park Equipment (a)	41	42	44	45	7.1%	46	47	48	49	50
Takoma Park PEG Oper. Support (a)	57	58	58	59	1.7%	60	62	64	66	68
Municipal League Eqp. (a)	41	42	44	45	7.1%	46	47	48	49	50
Muni. League PEG Oper. Support (a)	57	58	58	59	1.7%	60	62	64	66	68
SUBTOTAL	294	300	306	312 +	4.0%	318	327	336	345	354
F. COUNTY CABLE MONTGOMERY										
Joint Administration	20	14	136	204 +	1357.1%	209	214	219	224	230
Closed captioning	101	115	115	181 +	57.4%	186	191	196	201	206
Technical Operations Center (TOC)	123	145	145	145 +	0.0%	149	153	157	161	165
Arts PEG - AFI	0	0	0	0 +	0.0%	0	0	0	0	0
VOD, Community BB, web services	44	45	45	38 +	-15.6%	39	40	41	42	43
Public Information Office										
Personnel Costs	121	141	141	159 2 +	12.8%	166	174	182	190	199
Operating Expenses	12	10	10	10 2 +	0.0%	10	10	10	10	10
Contracts - TV Production	295	300	300	368 +	22.7%	378	388	398	408	419
County Council										
Personnel Costs	38	39	39	30 2 +	-23.1%	31	32	33	34	36
Operating Expenses	40	40	40	44 +	10.0%	45	46	47	48	49
Contracts - TV Production	267	311	311	372 +	19.6%	382	392	402	412	423
SUBTOTAL	1,061	1,160	1,282	1,551	33.7%	1,595	1,640	1,685	1,730	1,780

These projections for the Cable TV Fund incorporate assumptions of annual resources and resource usage as well as projected end-of-year reserves available based on these assumptions. This scenario assumes that operating expenditures will experience net increases as a trend. Factors contributing to the assumed rate of increase include compensation adjustments, program and productivity improvements, and cost increases driven by inflation. This scenario represents one possible fiscal future based on the incorporated set of expenditure and resource assumptions. Other scenarios would occur if the County Executive and County Council adopted a different program plan or if the future brings different trends than presumed in the incorporated assumptions. The County Executive presents these fiscal projections as a tool for thinking about the future fiscal policy implications of the recommended program of expenditures and resources.

FY06 CABLE COMMUNICATIONS PLAN (\$000's)

SCHEDULED EXPENDITURES	Actual FY04	pprove FY05	Estimated FY05	Recommended FY06	% Chg From '05 Plan	FY07	FY08	FY09	FY10	FY11
H. MONTGOMERY COLLEGE										
Personnel Costs	652	727	701	752 ³	3.4%	772	792	812	832	854
Operating Expenses	119	121	147	187 ³	54.5%	192	197	202	207	212
SUBTOTAL	771	848	848	939	10.7%	964	989	1,014	1,039	1,066
I. PUBLIC SCHOOLS										
Personnel Costs	1015	1043	1043	1080 ⁴	3.5%	1108	1137	1165	1194	1225
Operating Expenses	87	134	134	158 ⁴	17.9%	162	166	170	174	179
SUBTOTAL	1,102	1,177	1,177	1,238	5.2%	1,270	1,303	1,335	1,368	1,404
J. COMMUNITY ACCESS ORGANIZATIONS (b)										
Personnel Costs	1,359	1,400	1,400	1,548	10.6%	1,588	1,629	1,670	1,712	1,757
Operating Expenses	640	680	680	726	6.8%	745	764	783	803	824
SUBTOTAL	1,999	2,080	2,080	2,274 +	9.3%	2,333	2,393	2,453	2,515	2,581
K. OTHER										
PEG Equipment Replacement	631	700	700	803 +	14.7%	822	843	863	883	903
Emergency Equipment Reserve	2	50	50	50 +	0.0%	51	52	53	54	55
PEG Network Engineering & Admin	34	40	40	40 +	0.0%	41	42	43	44	45
Community Programming	0	35	35	44 +	0.0%	45	46	47	48	49
PEG Promotion	30	30	30	30 +	0.0%	31	32	33	34	35
PEG Network Operating	28	20	20	57 +	185.0%	58	60	62	64	66
Mobile Production Vehicle	22	45	45	595 +	1222.2%	90	140	170	178	180
Down County Comm. Media Facility	52	23	23	27 +	17.4%	28	29	30	31	32
Grants to Organizations	39	39	39	39 +	0.0%	40	41	42	43	44
Council communication boxes	129	0	0	0 +	0.0%	0	0	0	0	0
SUBTOTAL	967	982	982	1,885	71.6%	1,206	1,285	1,343	1,379	1,409
PEG + ADMIN. SUBTOTAL	8,490	8,965	9,038	10,461	16.7%	10,214	10,565	10,845	11,156	11,479
L. INSTITUTIONAL TELECOMMUNICATIONS										
FiberNet-Operations (DTS)	958	1,153	1,153	1,185 +	2.8%	1,216	1,248	1,279	1,311	1,345
FiberNet-Operations (DPWT)		210	210	214 +	0.0%	220	226	232	238	244
FiberNet-Operations transfer	367	-	-	0 ⁵ +	0.0%	0	0	0	0	0
FiberNet-CIP	2,000	1,000	1,000	1,000 ⁶	0.0%	0	0	0	0	0
Advanced Transportation Management System (ATMS) - CIP	0	0	0	1,241	0.0%	0	0	0	0	0
SUBTOTAL	3,325	2,363	2,363	3,640	-15.3%	1,464	1,776	1,511	1,549	1,589
TOTAL EXPEND-PROGRAMS	11,815	11,328	11,401	14,101	1.8%	11,678	12,341	12,356	12,705	13,068
OTHER USES OF CATV FUNDS -										
Prior Year Adjustments	510	0	0	0	0.0%	0	0	0	0	0
Transfer to the General Fund	2,636	-	-	0	0.0%	0	0	0	0	0
TOTAL OTHER USES & ADJ. -	3,146	0	0	0	0%	0	0	0	0	0
SURPLUS (DEFICIT)	(2,219)	93	855	-1,459	-1668.8%	1,261	1,746	2,096	2,120	2,132
FUND BALANCE	1,310	415	2,165	706	70.1%	1,967	3,713	5,809	7,929	10,061
FUND BALANCE per Policy Guidance			676	713		729	751	772	794	815
EXPENDITURES BY FUNDING SOURCE										
Transfer to Gen Fund-Indirect Costs	94	178	178	167 ¹	-6.2%	171	186	187	187	187
Transfer to Gen Fund-Cable Opns	237	0	0	0 ²	0.0%	0	0	0	0	0
Trans to Gen Fund-Mont Coll Cable Fd	771	848	848	939 ³	10.7%	964	989	1,014	1,039	1,066
Trans to Gen Fund-Public Sch Cable Fd	1,102	1,177	1,177	1,238 ⁴	5.2%	1,270	1,303	1,335	1,368	1,404
Trans to Gen Fund-FIBERNET Operation	367	0	0	0 ⁵	0.0%	0	0	0	0	0
Transfer to CIP Fund	2,000	1,000	1,000	2,241 ⁶	124.1%	28	302	0	0	0
Transfer to the General Fund-Other	2,636	0	0	0	0.0%	0	0	0	0	0
CATV Fund Direct Expenditures	7,244	8,125	8,198	9,516 +	17.1%	9,245	9,561	9,820	10,111	10,411
TOTAL EXPEND-FUNDING SOURCE	14,451	11,328	11,401	14,101	24.5%	11,678	12,341	12,356	12,705	13,068
NOTES:										
¹ Transferred from the Cable Television Special Revenue Fund to the General Fund-Indirect Costs.										
² Transferred to General Fund for Cable Operations in prior years.										
³ Transferred to General Fund for Montgomery College Cable Fund.										
⁴ Transferred to General Fund for Montgomery County Public Schools Cable Fund.										
⁵ Transferred to General Fund for FIBERNET Operations in prior years.										
⁶ Transferred to CIP Fund										
(+) Funded directly from the Cable Television Special Revenue Fund.										
(a) Maximum cable company contribution to fund municipal equipment										
(b) Currently Montgomery Community Television, Inc.										